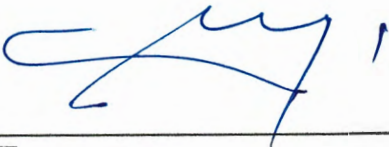


<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)		<b>ADVERSARY PROCEEDING NUMBER</b> (Court Use Only)
<b>PLAINTIFFS</b>  ORLANDO NORIEIGA COLOMBANI	<b>DEFENDANTS</b> COOPERATIVA DE AHORRO Y CREDITO DE RINCON, d/b/a COOP A/C RINCON	
<b>ATTORNEYS</b> (Firm Name, Address, and Telephone No.) CARLOS M VARGAS MUNIZ TEL. 787-833-5115 PO BOX 1515 MAYAGUEZ, PR 00681	<b>ATTORNEYS</b> (If Known)	
<b>PARTY</b> (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	<b>PARTY</b> (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
<b>CAUSE OF ACTION</b> (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Violation of Automatic Stay - 11 U.S.C. SEC. 362.		
<b>NATURE OF SUIT</b> (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p><b>FRBP 7001(1) – Recovery of Money/Property</b></p> <p><input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property</p> <p><input type="checkbox"/> 12-Recovery of money/property - §547 preference</p> <p><input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer</p> <p><input type="checkbox"/> 14-Recovery of money/property - other</p> <p><b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b></p> <p><input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property</p> <p><b>FRBP 7001(3) – Approval of Sale of Property</b></p> <p><input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)</p> <p><b>FRBP 7001(4) – Objection/Revocation of Discharge</b></p> <p><input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)</p> <p><b>FRBP 7001(5) – Revocation of Confirmation</b></p> <p><input type="checkbox"/> 51-Revocation of confirmation</p> <p><b>FRBP 7001(6) – Dischargeability</b></p> <p><input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims</p> <p><input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud</p> <p><input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny</p> <p style="text-align: center;">(continued next column)</p> </div> <div style="width: 48%;"> <p><b>FRBP 7001(6) – Dischargeability (continued)</b></p> <p><input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support</p> <p><input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury</p> <p><input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan</p> <p><input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)</p> <p><input type="checkbox"/> 65-Dischargeability - other</p> <p><b>FRBP 7001(7) – Injunctive Relief</b></p> <p><input type="checkbox"/> 71-Injunctive relief – imposition of stay</p> <p><input checked="" type="checkbox"/> 72-Injunctive relief – other</p> <p><b>FRBP 7001(8) Subordination of Claim or Interest</b></p> <p><input type="checkbox"/> 81-Subordination of claim or interest</p> <p><b>FRBP 7001(9) Declaratory Judgment</b></p> <p><input type="checkbox"/> 91-Declaratory judgment</p> <p><b>FRBP 7001(10) Determination of Removed Action</b></p> <p><input type="checkbox"/> 01-Determination of removed claim or cause</p> <p><b>Other</b></p> <p><input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i></p> <p><input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)</p> </div> </div>		
<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$	
Other Relief Sought Find defendant in contempt, award damages, costs and attorney's fees.		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR ORLANDO NORIEGA COLOMBANI		BANKRUPTCY CASE NO. 20-03954-MCF
DISTRICT IN WHICH CASE IS PENDING PUERTO RICO	DIVISION OFFICE	NAME OF JUDGE MCF
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
		
DATE 5/5/22	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Carlos M. Vargas Martin	

## INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

In re:	Case NO. 20-03954-MCF
ORLANDO NORIEGA COLOMBANI	
Debtor	
ORLANDO NORIEGA COLOMBANI	Chapter 13
Plaintiff	
Vs.	ADV. NO.
COOPERATIVA DE AHORRO Y CREDITO DE RINCON, a/k/a COOP A/C RINCON	
Defendants	
JOSE R CARRION	
Chapter 13 Trustee	

COMPLAINT SEEKING CONTEMPT REMEDIES FOR VIOLATION OF  
THE AUTOMATIC STAY AND THE ORDER OF CONFIRMATION OF THE PLAN

TO THE HONORABLE COURT:

NOW COMES the debtor, by and through his counsel, and respectfully exposes and prays:

1. This complaint is filed by the debtor in the above-captioned chapter 13 case. This Court thus has jurisdiction over this proceeding, which arises in a case under the Bankruptcy Code and concerns the property of the debtor, pursuant to 28 U.S.C. § 1334. This proceeding is a core

proceeding. Plaintiff hereby consents to the entry of final orders or judgment by the Bankruptcy Court in this matter.

2. The defendant, Cooperativa de Ahorro y Crédito de Rincón, a/k/a Coop A/C Rincón, received notice of Plaintiff's bankruptcy petition, Official Form 309A.

3. On June 16, 2021, an Order Confirming Plan, dated June 12, 2021, under 11 U.S.C. §1325(a) was entered. A copy of the Order Confirming Plan was delivered to the defendant and its counsel by first-class mail and on June 18, 2021, by electronic transmission.

4. Defendant Cooperativa de Ahorro y Crédito de Rincón, a/k/a Rincón Coop, has actual knowledge of the debtor's bankruptcy filing and of the confirmation of the plan dated June 12, 2021.

5. The debtor listed in Schedule A/B, among other real properties, a property identified as *"Lot No. 2 Cerro Gordo ward Aguada PR 00602-0000. Residential property on a 7,862.70 sq. mts. lot. Recorded: Fo. 115, Vol. 308, Lot 16,335. (Bought in 2006 from Longino Santiago Mendoza and wife Linda Sue Young and sold to Maximino Morales Carrero and his wife.)"*

6. The defendant herein filed a Proof of Claim in the bankruptcy case on October 29, 2021. Cooperativa de Ahorro y Crédito de Rincón, a/k/a Rincón Coop alleged as the basis of its claim a mortgage over the real property identified therein as follows:

- - - RUSTICA: Marcada en el plano de inscripción con el número dos (2) localizado en el Barrio Cerro Gordo del término municipal de Aguada, Puerto Rico, con una cabida superficial de siete mil ochocientos sesenta y dos punto setenta (7,862.70) metros cuadrados. En lindes, por el NORTE, con camino dedicado a uso público; por el SUR, con el solar número uno (#1); por el ESTE, con camino dedicado a uso público; y por el OESTE, con Tomás López

Carrero y Cruz Vega. Contiene una casa de concreto y bloques de hormigón dedicada a Vivienda.

- - - Inscrita al folio ciento quince (115) del tomo trescientos ocho (308) de Aguada, finca número dieciséis mil trescientos treinta y cinco (16,335), Registro de la Propiedad de Aguadilla.

7. Actually, there are not, and never have been, any buildings, residential or otherwise, built on the subject property, and certainly, there were none on June 19, 2006.

8. The plaintiff, debtor therein, filed an objection to the Proof of Claim filed by Cooperativa de Ahorro y Crédito de Rincón, a/k/a Rincón Coop, and on June 18, 2021, the debtor and defendant herein reached an accord and filed a Stipulation, formulated by the defendant's counsel, and signed by the attorney for the parties, as follows:

A. "4. Debtor has expressed no intention to preserve the encumbered property."

B. "5. In fact, Debtor stated in the Chapter 13 Payment Plan dated June 12, 2021 its intention to surrender the above described property to Coop A/C Rincón. See Docket 53."

C. 6. Since Debtor has expressed his intention to surrender the aforementioned property to Secured Creditor Coop A/C Rincón, Debtor and Secured Creditor have agreed to request this Honorable Court to lift the automatic stay to proceed against the property located at Cerro Gordo Ward in Aguada, Puerto Rico."

D. "9. Debtors hereby consents that this agreement will have "res judicata" effect in any future bankruptcy proceeding filed by Debtors."

E. "10. Debtors further consents that the instant stipulation will have effect of an *In Rem* order pursuant to 11 USC §362 (d) (4), binding in any bankruptcy that would affect the case of the property located at Cerro Gordo Ward in Aguada, Puerto Rico filed within two years after the approval of the stipulation of the Honorable Court."

9. On February 24, 2022, defendant Cooperativa de Ahorro y Crédito de Rincón, a/k/a Rincón Coop, filed a motion for the eviction of the plaintiff from the property shown in Paragraph

No. 6, above, in the Collection of Money and Mortgage Foreclosure action, Case No. ABCI201201800618.

10. An eviction order was entered in that case on March 18, 2022, and the Clerk of the Court issued a writ of eviction that was served upon the plaintiff on Friday, April 22, 2022. The order and writ of eviction were served by court marshals while the debtor was at his residential property, whose full legal description is as follows:

- - - RUSTICA: Marcado en el plano de inscripción como remanente, localizado en el barrio Cerro Gordo del término municipal de Aguada, Puerto Rico, con una cabida superficial de seis mil ochocientos cuarenta y tres metros cuadrados con treinta centímetros de otro (6846.30). En lindes, por el NORTE, con Clemente Méndez y Cruz Vega; por el SUR, con Osvaldo Acevedo; por el ESTE, con Cruz Vega y por el OESTE, con camino dedicado a Uso Público. Codificación número 126-109-004-18-002.

- - - Inscrita al folio ciento noventa y nueve (199) del tomo trescientos quince (315) de Aguada, finca número dieciocho mil trescientos quince (18,315), Registro de la Propiedad de Aguadilla.

11. The above-described property is the debtor's permanent residence, and as such, the debtor claimed in bankruptcy case No. 20-03954 the state homestead exemption under 11 U.S.C. §522(b)(3).

12. In bankruptcy case No. 21-03954-MCF, the debtor chose to surrender to creditor Cooperativa de Ahorro y Crédito de Rincón, a/k/a Rincón Coop, all and any interest he may hold in the property described in Paragraph 6, above. In return, creditor Cooperativa de Ahorro y Crédito de Rincón, a/k/a Rincón Coop, the defendant herein, agreed to withdraw its objection to the confirmation of the plan. The debtor, in conformity with the agreement, withdrew the filed

objection to the defendant's claim.

13. Defendant's legal submissions constitute a gross violation of the Order of Confirmation of the plan, dated June 12, 2021. 11 U.S.C. §1327(a) and (b). Defendant's motions filed at the Court of First Instance to have the debtor dispossessed or evicted from his residence constituted a willful violation of the confirmation of the plan in the bankruptcy case.

14. Defendant's willful violations of the automatic stay order under 11 U.S.C. §362(a)(1) and (2) and deprives the plaintiff of one of the most important benefits of the bankruptcy filing, namely, the opportunity of the "fresh start" bestowed upon the "honest but unfortunate debtor".

15. Defendant's willful violations of the discharge injunction of 11 U.S.C. § 524 have caused the plaintiff and continue to cause anxiety and insecurity in light of the prospect of being evicted from his home.

WHEREFORE, Plaintiff prays that this Court:

a. Order Defendant forthwith to formally withdraw the Motion Requesting an Eviction Order, in the Collection of Money and Mortgage Foreclosure action filed in the Court of First Instance, Aguadilla part, Case No. ABCI201800618;

b. Find that Defendant is in contempt of Court for violating 11 U.S.C. §§ 362 and 1327(a);

c. Award Plaintiff damages, costs, and attorney fees pursuant to 11 U.S.C. § 362(k) and 11 U.S.C. § 105(a); and

d. Order such other relief as is just and proper.

## NOTICE OF ORDER REQUIRING WRITTEN RESPONSE

Within twenty-one (21) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R Bank. P. 9006 (f), if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve, and file an objection or other appropriate response to this paper with the Clerk's Office of the United States Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the court, the interest of justice requires otherwise.

CERTIFICATE OF SERVICE: I hereby certify that on this date I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: the U.S. Trustee at [USTP.Region21@usdoj.gov](mailto:USTP.Region21@usdoj.gov), and I hereby certify that I have mailed by U.S. Postal Service, postage prepaid, copy of this notice to all non-CM/ECF participants as follows as per the attached master address list.

Dated: May 4, 2022.

s/Carlos M. Vargas Muñiz  
Carlos M. Vargas Muñiz  
U.S.D.C. 121607  
P.O. Box 1515  
Mayagüez, PR 00681-1515  
 [vargascarlosm1@gmail.com](mailto:vargascarlosm1@gmail.com)  
 [cmvmuniz@hotmail.com](mailto:cmvmuniz@hotmail.com)  
 787-833-5115



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

In re: ORLANDO NORIEGA COLOMBANI :	Case No. 20-03954-MCF
Debtor :	
_____ :	Chapter 13
ORLANDO NORIEGA COLOMBANI :	
Plaintiff :	Adv. Proc. No.
Vs. :	
COOPERATIVA DE AHORRO Y CREDITO :	
DE CABO ROJO :	
Defendant :	
JOSE R CARRION :	
CHAPTER 13 TRUSTEE _____ :	

**SUMMONS**

To the above-named defendant:

YOU ARE HEREBY SUMMONED and required to file a motion or answer to the complaint which is attached to this summons with the Clerk of the Bankruptcy Court within 30 days after the date of issuance of this summons. If the defendant is the United States or its office sor agencies, then a motion or answer to the complaint shall be filed within 35 days.

At the same time your motion or answer is filed, you must serve a copy of it upon the plaintiff's attorney Carlos M. Vargas Muñiz, Esq., or upon the plaintiff if not represented by counsel, at the following address: P.O. Box 1515, Mayagüez, PR 00681-1515; email: [vargascarlosm1@gmail.com](mailto:vargascarlosm1@gmail.com).

If you elect to respond first by motion pursuant to Fed. R. Bankr. P. 7012, that rule governs the time whithin which your answer must be served.

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FORT HE RELIEF DEMANDED IN THE COMPLAINT.

\_\_\_\_\_  
CLERK, U.S. BANKRUPTCY COURT

Date of Issuance: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy Clerk

## CERTIFICATE OF SERVICE

I, \_\_\_\_\_ (name), certify that service of this summons and a copy of the complaint was made on \_\_\_\_\_ (date) by:

☐ Mail service: Regular, first class United States mail, postage fully pre-paid, addressed to: \_\_\_\_\_

☐ Personal Service: By leaving the process with the defendant or with an officer or agent of defendant at: \_\_\_\_\_

I further certify that I am, and at all times during the service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made.

**I declare under penalty of perjury that the foregoing is true and correct.**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_